

NEBRASKA DEPARTMENT
OF INSURANCE

SEP 23 2004

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
VS.)	ORDER
)	
V. J. ROZANEK,)	
)	CAUSE NO. A-1582
)	
RESPONDENT.)	

This matter came on for hearing on the 14th day of September, 2004, before Michael Boyd, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Keri Schechinger. V. J. Rozanek ("Respondent") was not present and was not represented by an attorney. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Evidence was introduced, and the matter was taken under advisement. As a result of the hearing, the Hearing Officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was a licensed resident Nebraska insurance producer whose registered address with the Department is Knott Funeral Home, 835 "C" Street, David City, NE, 68632. Respondent's insurance producer license expired on October 31, 2002. (Exhibit 2). However, pursuant to Neb. Rev. Stat. §44-4059(5), the Director retains the authority for three years to enforce provisions of and impose any penalty or remedy authorized by the Insurance Producers Licensing

Act against any person ... even if the person's license or registration has been surrendered or lapsed by operation of law.

2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.

3. The Department filed a Petition and Notice of Hearing on or about July 29, 2004, that were served upon the Respondent by mailing the same to his address of record by certified mail, return receipt requested. Respondent received the Petition and Notice of Hearing on August 4, 2004, as evidenced by the return receipt card attached to Exhibit 1. A cover letter from Ms. Schechinger that was intended to accompany the Petition and Notice of Hearing was inadvertently omitted from that mailing. It was mailed on or about August 3, 2004 to Respondent at his address of record by certified mail, return receipt requested. Respondent received the cover letter on August 18, 2004, as evidenced by the return receipt card attached to Exhibit 1.

4. The Department, in its Petition, alleged that Respondent violated Neb. Rev. Stat. § 44-4059(1) which states that the Director may suspend or revoke an insurance producer's license and/or impose a fine for any one or more of the following causes: ... (b) violating any insurance law, or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director; or (g) having admitted or been found to have committed any insurance unfair trade practice. The Petition further alleged that Respondent violated Neb. Rev. Stat. §44-1525(11) which states that it shall be an unfair trade practice in the business of insurance to fail to respond to a written inquiry from the department within fifteen working days from the receipt of the inquiry as a result of the following conduct:

- a. In the course of a market conduct examination of Knott Funeral Home's insurance affairs, authorized pursuant to Neb. Rev. Stat. §§44-5901 through 5910 and §44-1527, Reva Vandevoorde, an examination supervisor with the Department of Insurance's Market Conduct Division, wrote to the Respondent, on or about June 4, 2004, requesting that he provide the Department with certain specified information related to the market conduct examination. The Respondent was advised that Neb. Rev. Stat. 44-1525 (11) required a response within fifteen working days. Said inquiry was sent via certified mail, return receipt requested. After two failed attempts to deliver said certified letter to Respondent on June 8 and June 16, 2004, with notices left by the United States Postal Service, the certified letter was returned to the Department of Insurance on or about June 25, 2004 by the U. S. Postal Service stating the letter was "Unclaimed". (Exhibit 3). The Respondent failed to respond to the Department's June 4, 2004 letter within fifteen working days as evidenced by Exhibit 3.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. § 44-101.01, and § 44- 4047 et seq.
2. The Department has personal jurisdiction over Respondent.
3. The Respondent violated Neb. Rev. Stat. §§ 44-1525(11), 44-4059(1)(b), and 44-4059(1)(g).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Respondent shall pay an administrative fine of \$1,000 within thirty (30) days of the date the Director of Insurance signs this Order. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

Dated this 22nd day of September, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. V. J. Rozanek, Cause No. A-1582.

Dated this 28th day of September, 2004.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent

at Knott Funeral Home, 835 "C" Street, David City, NE 68632 by certified mail, return receipt requested, on this 2nd day of September, 2004.

Tracy A. Guhn